

REMARKS / ARGUMENTS

The present application includes pending claims 1-31, all of which have been rejected. Independent claims 1, 11, and 21 have been amended. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 1-31 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,970,919, issued to Doi, et al. (hereinafter, Doi). The Applicant respectfully traverses these rejections at least based on the following remarks.

CLAIM REJECTIONS UNDER 35 U.S.C. § 102

I. Doi Does Not Anticipate Claims 1-31

The Applicant first turns to the rejection of claims 1-31 under 35 U.S.C. 102(e) as being anticipated by Doi. With regard to the anticipation rejections under 102(e), MPEP 2131 states that “[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” See Manual of Patent Examining Procedure (MPEP) at 2131 (internal citation omitted). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” See id. (internal citation omitted).

A. Rejection of Independent Claim 1 under 35 U.S.C. § 102(e)

With regard to the rejection of independent claim 1 under 35 U.S.C. § 102(e), the Applicant submits that Doi does not disclose or suggest at least the limitation of "establishing a second communication path that is independent of a first communication path that couples at least two end points via at least a first broadband network, wherein each network connection on said first communication path has a corresponding network connection on said second communication path," as recited by the Applicant in independent claim 1.

The Final Office Action states the following:

Regarding claim 1, Doi et al. teaches a method and system for network management (see column 2 line 21-31) comprising: establishing a second communication path (see col.15 line 37 - 65 edge 1 and edge 7 via nodes F, I, G, and J and figure 26) that is independent of a first communication path (see col.14 line 45 - col. 15 line 36 edge 1 and edge 7 via node A, node D and node G and node J and figure 25) that couples at least two end points via at least a first broadband network (see figure 25 and 26);

See the Final Office Action at page 2. Referring to Figures 25 and 26 of Doi, the Examiner is referring to a "second communication path" between edges 1 and 7. More specifically, the Examiner is equating the "second communication path" to include the path [edge 1 – A – F – I – G – J – edge 7]. Furthermore, the Examiner is equating the "first communication path" to include the path [edge 1 – A – D – G – J – edge 7]. Initially, the Applicant points out that **the path [edge 1 – A – F – I –**

G – J – edge 7] is not “independent of” the path [edge 1 – A – D – G – J – edge 7] since both paths include three common links (edge 1 – A, G – J, and J – edge 7) and each of these three common links can be used in either the first or the second communication path. In other words, at any given time, each of the three common links can be used in only one communication path, and cannot be used independently in both communication paths.

Furthermore, the Applicant points out that each network connection on the first communication path [edge 1 – A – D – G – J – edge 7] does not have a corresponding network connection on the second communication path [edge 1 – A – F – I – G – J – edge 7]. The Examiner also states the following in the Final Office Action:

The forming of virtual path as being a part of the reselection path, which corresponds to second communication path, and this path is independent of the original working path. Therefore, it meets the limitations of establishing a second communication path that is independent of a first communication that couples at least two end points via at least a first broad network.

See the Final Office Action at page 6. The Examiner is using the virtual path between nodes F and G (Figure 26 of Doi, dotted line) as part of the second communication path. As clearly stated in Doi, there is no physical link between nodes F and G. See Doi, col. 15, lines 56-59. Therefore, each network connection on the first communication path does not have a corresponding network connection on the second communication path.

Therefore, the Applicant maintains that Doi does not disclose or suggest at least the limitation of "establishing a second communication path that is independent of a first communication path that couples at least two end points via at least a first broadband network, wherein each network connection on said first communication path has a corresponding network connection on said second communication path," as recited by the Applicant in independent claim 1.

Accordingly, independent claim 1 is not anticipated by Doi and is allowable. Independent claims 11 and 21 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 11 and 21 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

B. Rejection of Dependent Claims 2-10, 12-20 and 22-31

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11, and 21 under 35 U.S.C. § 102(e) as being anticipated by Doi has been overcome and requests that the rejection be withdrawn. Additionally, claims 2-10, 12-20 and 22-31 depend from independent claims 1, 11, and 21, respectively, and are, consequently, also respectfully submitted to be allowable.

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The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 1-31.

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CONCLUSION

Based on at least the foregoing, the Applicant believes that all claims 1-31 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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